

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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DAVID MICHAEL MONDOR,

Case No. 17-cv-1009 (DSD/TNL)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

DOC/STATE,

Defendant.

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Plaintiff David Mondor commenced this action by filing a complaint under 42 U.S.C. § 1983. Mondor did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). *See* ECF No. 2. Upon screening of the complaint, the Court informed Mondor on June 7, 2017, that his complaint was inadequate and subject to dismissal under 28 U.S.C. § 1915(e)(2)(B)(iii) because the only defendant he named was immune from suit under the Eleventh Amendment. ECF No. 5 at 2. The Court ordered Mondor to file an amended complaint if he wished to proceed with his case. Mondor was given 30 days to comply, failing which it would be recommended that the case be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Mondor has not filed an amended complaint. Accordingly, this Court now recommends that this action be dismissed without prejudice for the reasons outlined in its prior Order and under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

## **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Date: August 2, 2017

s/ Tony N. Leung  
Tony N. Leung  
United States Magistrate Judge  
for the District of Minnesota

*Mondor v. DOC/State*  
Case No. 17-cv-1009 (DSD/TNL)

## **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).